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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,433	12/10/2003	Walter C. Muren	5997.0037	5179
22852 7590 02/13/2009 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
EXAMINER OBEID, FAHD A				
ART UNIT 3627		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/731,433

Applicant(s)

MUREN, WALTER C.

Examiner

FAHD A. OBEID

Art Unit

3627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-25, 27-35 and 37-42 is/are pending in the application.
- 4a) Of the above claim(s) 39-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-25, 27-35, 37-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of the Application

1. **Claims 1-7, 9-25, 27-35, and 37-42** are pending in this application.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/22/2008 has been entered.

Preliminary Remarks

1. This is in reply to application filed on 12/22/2008.
2. No claims have been added or cancelled.
3. Claims 1, 22, 23, 33, and 38 have been amended.
4. Claims 39-42 remain withdrawn and being drawn to a nonelected invention.
5. Claims 8, 26, and 36 were cancelled previously by applicant.
6. Claims 1-7, 9-25, 27-35, and 37-38 are currently pending and have been examined.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-7, 9-10, 12-25, 27-28, 30-35, and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stout (5,878,404) in view of King (5,742,775).**

5. Regarding Claims 1, 2, 22, 23, 24, 33, and 34: Stout discloses a computer-implemented method for controlling a system to provide a mortgage, said method comprising:

- Receiving a fixed payment for the mortgage, the fixed payment being based on an initial interest rate serving as a maximum interest rate (at least fig 6).
- Qualifying, when a current interest rate has declined, a revised interest rate for an outstanding balance of the mortgage, the revised interest rate being lower than the maximum interest rate, wherein qualifying includes determining, using a processor, the revised interest rate and evaluating a loan to value ratio, an appraisal of a property, and a credit history (fig.5, col 5 lns 54-67, and col 6 lns 1-44).
- Determining, when the current interest rate has increased and using the processor, the revised interest rate for the outstanding balance of the mortgage, wherein the revised interest rate does not exceed the maximum interest rate (at least fig 6).
- Determining a principal and interest amount based on the revised interest rate, (fig.6 and col 6 lns 32-44).

- Determining a difference between the fixed payment and a sum of the principal and interest amount (at least fig 6).
- Paying the mortgage based on the difference (at least fig 6).

Stout does not expressly disclose the revised interest rate being lower than the maximum interest rate.

However, King discloses the revised interest rate being lower than the maximum interest rate (figs.2, 3, 6b, col 17 lns 1-25).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use King's teachings in Stout's "system and method for managing the amortization of a loan" enabled, for the advantage of controlling market variable interest rate to avoid refinancing/foreclosures.

6. Regarding Claims 3, 25, and 35: Stout discloses the method of claim 1, wherein paying further comprises:

- Reducing a term associated with the mortgage (fig 6).

7. Regarding claim 4: Stout discloses the method of claim 1, further comprising:

- Offering the mortgage to one or more borrowers (claim 7).

8. Regarding claim 5: Stout discloses the method of claim 1, further comprising:

- Receiving a request for a lower interest rate, the lower interest rate being based on the current interest rate (fig.5 and claim 7).

9. Regarding claim 6: Stout discloses the method of claim 5, further comprising:
- Accepting the request (fig 5).
10. Regarding claim 7: Stout discloses the method of claim 1, further comprising:
- Receiving an indication of an adjusted interest rate, the adjusted interest rate serving as the revised interest rate (col 6 lns 32-44).
11. Regarding Claims 9, 27, and 37: Stout discloses the method of claim 1, further comprising:
- Determining the revised interest rate based on the current interest rate plus a fixed amount (col 6 lns 32-44).
12. Regarding Claims 10, 28, and 38: Stout discloses the method of claim 1, further comprising:
- Determining the revised interest rate based on the current interest rate, the current interest rate not exceeding the initial interest rate (col 6 lns 32-44).
13. Regarding Claims 12 and 30: Stout discloses the method of claim 1 further comprising:
- Increasing the revised interest rate based on the current interest rate (fig.6).

14. Regarding Claims 13 and 31: Stout discloses the method of claim 12, wherein determining the principal and interest amount further comprises:

- Using the increased revised interest rate to determine the principal and interest amount (fig.6 and col 6 lines 32-44).

15. Regarding claim 14: Stout discloses the method of claim 13, further comprising:

- Defining the revised interest rate, the revised interest rate being subsequently decreased (figs.5 & 6, col 6 lines 32-44).

16. Regarding claim 15: Stout discloses the method of claim 1, further comprising:

- Determining whether one or more terms and conditions are satisfied (fig.5).

17. Regarding claim 16: Stout discloses the method of claim 1, further comprising:

- Using the fixed payment for an entire term associated with the mortgage (fixed payment of \$ 1000; see at least fig 6).

18. Regarding claim 17: Stout discloses the method of claim 1, further comprises:

- Receiving an indication that the fixed payment has been received (at least fig 6).

19. Regarding claims 18 and 32: Stout discloses the method of claim 1, further comprising:

- Determining the fixed payment based on the initial interest rate, a principal balance at close of the mortgage, and a term at close of the mortgage (at least fig 6).

20. Regarding claim 19: Stout discloses the method of claim 1, further comprising:

- Determining the principal and interest amount based on the revised interest rate, a principal balance remaining on the mortgage, and a term remaining on the mortgage (at least fig 6).

21. Regarding claim 20: Stout discloses the method of claim 19, further comprising:

- Reducing the principal balance remaining on the mortgage by paying the fixed payment (at least fig 6).

22. Regarding claim 21: Stout discloses the method of claim 20, further comprising:

- Reducing the principal balance, such that the mortgage amortizes positively (at least fig 6).

23. Claims 11 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stout (5,878,404) in view of King (5,742,775), as applied to claim 1-10, 12-28, and 30-38 above, and further in view of NPL.

24. Regarding Claims 11 and 29: Stout and King do not expressly disclose an equation to determine the principal and interest amount.

However NPL discloses determining the principal and interest amount further comprises:

- Determining the principal and interest (P & I) amount based on the following equation:
$$P \ \& \ I \ \text{amount} = (\text{loan amount}) * [(\text{lower interest rate}) / (\text{interest factor})]$$

Wherein the interest factor is determined based on the following equation:

Interest Factor = $[1 - (1 + \text{monthly interest})]^{-\text{periods}}$ (NPL page 8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use NPL's teachings in King's administering an adjustable rate loan system enabled, for the advantage of computing a principal and interest amounts based on fluctuating interest rates, periods, and loan to provide monthly payments.

Response to Arguments

1. Applicant's arguments have been fully considered but they are not persuasive. In particular the applicant argues that: a) Qualifying, when a current interest rate has declined, a revised interest rate for an outstanding balance of the mortgage, the revised interest rate being lower than the maximum interest rate, wherein qualifying includes determining, using a processor, the revised interest rate and evaluating a loan to value ratio, an appraisal of a property, and a credit history.
2. In response to a) examiner respectfully disagrees. Applicant is reminded that claims must be given their broadest reasonable interpretation. Stout teaches a rate adjustment option module resets the rate of interest on the principle balance in response to the debtor's election and within certain qualifying conditions (abstract); the process of qualifying conditions to reset the interest rate such as to limit rate resetting to prescribed periods of time rather than at any time during the term of the loan, limiting the number of times the rate of interest is reset within the term of the loan as well as the frequency of resetting the rate, rate adjustment may be prohibited if any payments are delinquent or if a prescribed number of late payments is exceeded (fig.5, col 5 lns 54-67, and col 6 lns 1-44).

Therefore, Stout still meets the scope of the limitation as currently claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FAHD A. OBEID whose telephone number is (571)270-3324.

The examiner can normally be reached on Monday to Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fahd A Obeid/
Examiner, Art Unit 3627
02/10/2009

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627